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EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BENGT DOHMERS
and JELENA DOHMERS

Appeal 2009-001283
Application 10/518,304
Technology Center 1700

Decided: September 18, 2009

Before CHARLES F. WARREN, PETER F. KRATZ, and,
MARK NAGUMO, *Administrative Patent Judges.*

WARREN, *Administrative Patent Judge.*

DECISION ON APPEAL

Applicants appeal to the Board from the decision of the Primary Examiner finally rejecting claims 1, 2, 5, and 6 in the Office Action mailed October 12, 2007 ("Office Action"). 35 U.S.C. §§ 6 and 134(a) (2002); 37 C.F.R. § 41.31(a) (2007).

We affirm the decision of the Primary Examiner.

Claim 1 illustrates Appellants' invention of a mat and is representative of the claims on appeal:

1. Mat comprising a number of layers (1, 1a) where each layer (1, 1a) comprising [sic] an absorbing sub-layer (10), and that the layers (1, 1a) are mutually connected along the edges of the mat, characterized in that each layer (1, 1a) comprises a barrier sheet (9) provided below the absorbing sub-layer (10), and that each layer (1, 1a) comprises a net (11) provided on top of the absorbing sub-layer (10), wherein the layers (1, 1a) are mutually connected on all sides of the mat by means of a glue barrier (5) that excludes dirt and moisture from between the layers.

The Examiner relies upon the evidence in these references (Ans. 3):

Nappi	US 3,665,543	May 30, 1972
De Guzman	US 4,917,975	Apr. 17, 1990
McKay	US 6,458,442 B1	Oct. 1, 2002
Renton	GB 2 343 842 A	May 24, 2000

Appellants request review of the grounds of rejection appearing on pages 2 and 3 of the Office Action and advanced on appeal by the Examiner (App. Br. 3; Ans. 2):

claims 1, 2, and 6 under 35 U.S.C. § 103(a) over Renton in view of McKay (Ans. 3); and

claim 5 under 35 U.S.C. § 103(a) over Renton in view of McKay further in view of each of De Guzman or Nappi (Ans. 4).

Appellants state "the claims stand or fall together" and that "this appeal can be decided on the basis of claim 1 alone, having regard only for [Renton]." App. Br. 3. Thus, we decide this appeal based on claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Issue

The issue in this appeal is whether Appellants have shown that the evidence in Renton would not have led one of ordinary skill in this art to connect the edges all sides of the individual layers of a mat by gluing, which

is required by representative independent claim 1 in specifying that the edges of the layers of the mat are mutually connected on all sides by glue.

Findings of Fact

We find Renton would have disclosed to one of ordinary skill in this art a mat of individual sheets or layers, wherein "[t]he sheets may be glued together at their edges," thus forming a mat or "pad with glued edges." Renton, e.g., abstract and claims 4 and 5. Renton discloses "[t]he novelty of the invention is that once the top layer of paper becomes saturated or soiled [sic] this can simply be removed leaving a fresh surface below." Renton 1. Renton discloses that "FIG 3 shows an alternative by which the pad is held together by gluing the edge 'D', obviating the need for the tray shown in figs 1 and 2." Renton 1 and Fig. 3. Renton further discloses that when "a pack of absorbent paper or card 'B'" is in a tray, "a finger hole 'C' in the corner of the pack 'B' . . . [will] facilitate easy removal of each sheet as it becomes soiled." Renton 1; see *also* Figs. 1 and 2, and abstract. Renton also discloses that the glued pack or pad "B" can be inserted into a floor recess. Reston, e.g., abstract, 1, Fig. 4, and claims 4 and 5.

A discussion of McKay, De Guzman, and Nappi is unnecessary to our decision.

Opinion

We considered the totality of the record in light of Appellants' arguments with respect to claim 1 and the ground of rejection advanced on Appeal. *See, e.g., In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima*

facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998); *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992) ("After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument.") (citing, inter alia, *In re Spada*, 911 F.2d 705, 707 n.3 (Fed. Cir. 1990)).

We are of the opinion Appellants have not established that the evidence in Renton would not have led one of ordinary skill in this art to connect the edges of all sides of the individual layers of a mat by glue as claimed. On this record, we agree with Appellants that the term "edge" and not the term "edges" appears in Renton's description of Figure 3, and the Examiner does not contend otherwise. App. Br. 3-4; Ans. 5.

Appellants do not dispute the Examiner's position that other disclosure in Renton would have led one of ordinary skill in the art to connect all edges of each of the sheets by gluing to form the pad or mat. Ans. 5, citing Renton abstract and claims 4 and 5; App. Br. 5; Reply Br. 1-2. Instead, Appellants submit that if all of the edges of the sheets or layers of Renton's pad or mat are glued together, then the sheets or layers cannot be separated with "finger hole 'C'" or when the pad or mat is inserted into a floor recess. App. Br. 5, citing Renton Figs. 2-4; Reply Br. 1-2.

We disagree. We find no disclosure in Renton which requires a finger hole when the edges of all sides of the individual layers of the pad or mat are connected by glue or requires that the pad or mat must be used in a recess, as the Examiner points out. See Ans. 5-6; *see above* p. 3. Furthermore,

Appellants point to no disclosure in Renton which establishes that the glued together layers cannot be separated. Indeed, Renton requires that the layers of the pad or mat must be capable of separation, and one of ordinary skill in this art would have taken that direction into account in selecting the glue to connect the edges of the layers together.

Accordingly, based on our consideration of the totality of the record before us, we have weighed the evidence of obviousness found in the combined teachings of Renton and McKay alone and as further combined with De Guzman or Nappi with Appellants' countervailing evidence of and argument for nonobviousness and conclude, by a preponderance of the evidence and weight of argument, that the claimed invention encompassed by appealed claims 1, 4, 5, and 6 would have been obvious as a matter of law under 35 U.S.C. § 103(a).

The Primary Examiner's decision is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

PL Initial:
sld

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